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FITZPATRICK CELLA (AMEX) 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER MOONEYHAM, JANICE A	
			ART UNIT 3629	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/708,542

Applicant(s)

BARANOWSKI ET AL.

Examiner

JANICE A. MOONEYHAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the applicant's communication filed on May 16, 2007, wherein:

Claims 1-7 and 9 are currently pending;

Claims 1, 4, and 7 have been amended.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/07 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 recites the limitation "wherein the redundant data center is configured to store a database for each of the plurality of data distribution systems". There is insufficient antecedent basis for "the plurality of data distribution systems" in the claim.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 is directed to a system comprising a communication network, a plurality of centralized hub sites, a data distribution system, a remote site including a point of service terminal connected to at least one of the plurality of centralized hub sites, such that the point of service terminal is configured to access ***each of the plurality of data distribution systems***. However, applicant has claimed a data distribution system.

Applicant claims wherein the point of service terminal comprises a user interface configured to allow simultaneous access to the plurality of data distribution systems. However, applicant has not positively claimed a plurality of data distribution systems.

Applicant claims that the point of service is configured to allow access to the plurality of data distribution systems and a customer service application tier having at least one of a low fare search module, etc. Applicant then claims that wherein at least one of the super passenger name record database and customer database store information in a plurality of data sets. However, applicant has not positively claimed these databases.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman et al (US 2003/0120526) (hereinafter referred to as Altman) in view of Acebo et

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al (6,023,679) (hereinafter referred to as Acebo) and further in view of Rosenbluth International (WO 02/29672) (hereinafter referred to as Rosenbluth) and further in view of DeLorme et al (5, 948,040) (hereinafter referred to as DeLorme).

Altman discloses a system and method for facilitating transactions among travel service suppliers and travel service buyers, the system and method comprising:

providing a communication network in communication with a plurality of centralized hub sites (Figure 1 (105) (Distributed Computer Network [0050] and Figure 2 (285) (290)) **and configured to provide access to a data distribution system thru the hub sites** (booking system (230) [0022] the present invention pulls data for air, car, hotel, train, and other travel products and services from one or more data sources, including global distribution system (GDS) sources, public Web sites (e.g. an individual airline's Web site, an individual hotel's Web site), travel aggregation public Web sites (e.g. Web sites that allow the public to search and book hotels, flights, car rentals), private direct connections to vendors and other sources [0057] [0059] the booking system combines data from multiple sources (GDS and non-GDS), **a travel broker database configured to be accessible by the travel service suppliers and the travel service buyers** ([0034] All travel information (e.g., air, car, and hotel segments) for that trip is stored in one trip record, regardless of where the trip was originally booked. (E.g., if a traveler buys a plane ticket from a travel aggregation public Web site, a public Web site, a car from a GDS, all of this information will be displayed in one trip record.) The trip record enables a traveler, manager, or other user to view all information for a trip regardless of the data source. The traveler can

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also be emailed a notification prior to the trip start indicating changes, upgrades, cancellations, and the cancellation policy. In addition, the information captured (e.g., booking source, confirmation codes, contact information) interfaces with multiple other systems, can be viewed by the agent (e.g., while the user is attempting to book a ticket), and enables the agent to provide an enhanced level of service by providing access to the following information: identification information (e.g., name, phone number, email); current travel request (e.g., the plane ticket the user has selected, plane ticket options displayed to the user); current availability; full trip itinerary and record; requests for a trip in progress; past travel history (even when that history has expired from a GDS); the traveler's profile, the traveler's travel policy; and information enabling the agent to finalize booking. The agent can also search for the user's record by restricting the search to only those users who are currently logged into the system. In addition, the traveler's profile is also constantly updated with the multiple data sources; [0036] In another embodiment, the present invention provides a system and method for managing booking of travel products and services, comprising: receiving request criteria; retrieving at least one option that relates to the request criteria by searching multiple data sources Figure 2 (230) and (280)), **a travel history database** (Figure 2 (225) and [0034] past travel history, the traveler's profile [0058]), **a point of service terminal connected to the communication network configured to access the databases** (Figure 2 (205) (210)), **wherein the data distribution system is connected to a plurality of travel vendor databases** (Figure 2 (291) (292)(293) and (294)[0033] [0057] [0059]);

providing a point of service terminal with access to the broker database and the travel history database through the communication network (Figure 2 (205) and (210));

Altman discloses presenting information pulled from multiple data source in one user-friendly format [0031]. Altman discloses an invention that pulls data for air, car, hotel, train and other travel products and services from one or more data sources, including global distribution system (GDS) sources, public Web sites (e.g., an individual airline's Web site, an individual hotel's Web site), travel aggregation public Web sites (e.g., Web sites that allow the public to search and book hotels, flights, car rentals, private direct connection to vendors, and other sources. Altman discloses that regardless of the data source, the pulled data is displayed in one format in one display [0033] (The Examiner interprets to mean that Altman receives a plurality of data sets or records in a plurality of formats) While Altman discloses storing travel history (traveler's profile), Altman does not disclose configuring the database to be accessed by travel service buyers who use information about a traveler's future travel plans, storing the information in the plurality of data sets in a plurality of formats or placing, accepting reverse auction bids on travel service inventory, or configuring the travel broker database to store information about travel service inventory, wherein the travel service suppliers post and edit information about travel service inventory, and wherein travel service buyers browse perform queries.

However, Acebo discloses PNR information from the CRS queue is downloaded directly into a record keeping system for modification prior to being entered into the local

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database. The PNR must be parsed or processed to be place in the appropriate database format. Acebo discloses relational databases to store data, placing PNR information in the appropriate database format (col. 2, lines 6-10, 21-22, col. 2, lines 58-65) and information formatted into a format compatible (indicating multiple formats) with the locally operated computers(col. 5, lines 25-40). Acebo discloses databases organized into a single table format and travel systems which organize information in a database in a travel transaction format, including air table, ground transportation, and hotel (col. 2, line 66 thru col. 4, line 20) . Acebo also discloses customer profiles wherein pre-ticketed data can be monitored (col. 1, lines 8-13 and 40-65) and a system for providing access to current pre-ticketed and pre-invoice reservation information (col. 4, line 63 thru col. 5, line 3) if a ticket is not generated simultaneously, then the information transferred to the locally operated computer system is pre-ticketed booked travel reservation information that can be displayed on the computer, used to generate reports from the computer, downloaded in a database for processing, or combined with previously stored post-ticketed information to generate reports including both types of information.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel and booking method and system of Altman the ability to store the various records and data in different formats since reservation information comes from multiple sources, for example, a typical itinerary for one passenger can include three travel transactions, such as an air transaction, hotel transaction, and rental car transaction which must be stored, accessed and displayed.

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Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel and booking method and system of Altman storage of pre-ticketed data taught in Acebo so that passenger records can be accessed for analysis and pre-ticket data can be used to determine the number of people going to the same destination so that a possible group rate may be negotiated.

Rosenbluth discloses a system and method that allows for reverse auctions in the travel industry wherein the travel service suppliers can place bids based on RFPs (page 1, line 13 thru page 2, lines 5; page 2, lines 8-17, page 11, line 14 thru page 12, line 6).

It would have been obvious to one of ordinary skill in the art to incorporate into the travel and booking method and system of Altman the reverse auction taught in Rosenbluth so that corporate buyers and sellers can directly negotiate an agreement by submitting a request for proposal and suppliers submitting bids, thus getting better deals.

Altman does not disclose that the travel broker database is configured to store information about travel service inventory wherein suppliers can post and edit the inventory.

However, DeLorme teaches that input/output (Figure 2 (231)) offers/brokers provider input to and from third party providers of travel information in real time which can be updated (interpreted by the Examiner as post and edit). Provider input can be browsed and queried by consumer (Figure 2). One would be motivated to incorporate this into the travel broker disclosed in Altman since this enables users to enjoy more

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immediate offerings, such as updated information on accommodation availability, special offers for discounts, etc (col. 31, lines 42-51).

Furthermore, the Examiner notes that claim 1 is directed to a system. The applicant appears to be trying to claim the system what it does and the information being stored in the system rather than the actual structure of the system.

The Examiner notes that following as to the limitation:

wherein the travel broker database is configured to store information about travel service inventory *for* access by suppliers who post and edit travel and place reverse auction bids on posted travel service inventory and access by the travel service buyers to browse and perform queries on the travel service inventory and to accept reverse auction bids for travel service inventory from travel service suppliers.

The fact that the information is travel service inventory or travel history about a traveler's future travel plans is non-functional descriptive data. When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. See *Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; see also *Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give

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patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the substrate. The Examiner asserts that the data identifying the type data being stored in a database adds little, if anything, to the claimed structure of the system and thus does not serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data which does not explicitly alter or impact the steps is non-functional descriptive data. Except for the meaning to the human mind, the data identifying the information stored in the database does not functionally relate to the substrate and thus does not change the steps of the method as claimed. The subjective interpretation of the data does not patentably distinguish the claimed invention.

Moreover, the claim limitation, while directed to a system, reads that wherein the travel broker database is configured to store information about travel service inventory **for** access by the travel service suppliers who post and edit travel service inventory and place reverse auction bids on the inventory and for access by the travel service buyers to browse and perform queries on the inventory and accept bids.

The intended use of the information stored in a database is given little patentable weight. Moreover, there is no positive recitation of users accessing the database or posting/editing/browsing/querying the information. The fact that the travel suppliers can post and edit the inventory and place reverse auction bids does not affect the structure of the system. The database is still a database.

As for the limitation of wherein the travel history database is configured to store current information about a travel's future travel plans is again non-functional descriptive data. Moreover, the fact that the information is to be accessed by buyers is not a positive recitation of the database being accessed. The fact that the buyers use the information to place orders is also non-functional descriptive data. This language does not change the structure of the system.

As for the reverse auction limitation, the applicant's specification only discloses the following as to that limitation:

[0042] Referring now to FIG. 4, databases 144 provide substantially private, secure, and confidential storage of all travel data including traveler data, corporate client data, and the Market Information Data Tape (MIDT). Databases 144 include traveler market broker database 145, traveler profile database 146, PNR database 148, corporate negotiated programs database 152, and travel history data warehouse 154. **Travel service suppliers 145 may post and edit**

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inventory in the travel market broker database 145. The posted inventory may include information concerning dates and time, geographic location, quantity, price ranges, amenities, restrictions and other relevant information. ***The inventory may be viewed by travel service buyers 135 who may browse and perform queries on the inventory using a user interface 138.***

[0043] Travel service buyers 135 may access traveler history data warehouse 154 to obtain current information on traveler's future travel plans such as volume of travel, destinations, dates, times, carriers, cost, and other travel itinerary details. Travel service buyers 135 may use this information to place orders to suppliers in order to reduce travel cost and get better deals. The orders may include details such as date and time range of travel, geographic location, quantity, price range, required minimum difference between price and the corporate negotiated price, desired amenities, and other trip requirements. ***Travel service suppliers 145 may then place bids for the orders in a reverse auction fashion.*** The travel service suppliers' bids may be "opaque" such that competitors and current customers cannot see the bid. This will allow suppliers to discretely unload inventory at lower prices than available through their retail channels and without drawing attention from competitors or current customers. The suppliers may not be able to view the responses of their competitors. The travel service suppliers may configure alerts for types of orders that are desired to be acted upon. In addition, a matching function may be provided that determines which previously posted inventory or returned bids satisfy a placed order and returns the results to the travel service buyer for final selection and approval.

Thus, it appears that applicant's invention is directed to a database that allows users to post and edit information, and browse and perform queries on the stored information.

As for claim 4, claim 4 is directed to a method. The fact that a travel broker database is configured to be accessible by supplier and buyers is not a positive recitation of a step of the suppliers or buyers accessing the database.

Moreover, there is not positive recitation of suppliers posting and editing information or placing bids. Nor is there a recitation of the buyer browsing, performing queries and accepting bids.

The fact the database is configured to store information about a traveler's future travel plans and that the database is to be accessed by a buyer who uses the information about the plans to place orders is not a positive recitation of the buyer accessing the database or using the information for the placement of orders. Thus, this information is non-functional descriptive data.

Claims 2-3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman, Acebo, Rosenbluth, and DeLorme as applied to claims 1 and 4 above, and further in view of Pratt (US 2001/0049693) (hereinafter referred to as Pratt).

Altman discloses databases storing information in a plurality of data sets (records) in a plurality of formats. Altman does not disclose wherein the plurality of data sets are stored as ungrouped data elements formatted as a block of binary via a fixed memory offset, wherein the plurality of data sets are annotated for storage with at least one of a header and a trailer.

However, Pratt discloses databases storing information in a plurality of data sets in a plurality of formats, [0032] [0041-0042], wherein the plurality of data sets are stored as ungrouped data elements formatted as a block of binary via a fixed memory offset [0032][0046], wherein the plurality of data sets are annotated for storage with at least one of a header and a trailer [0037].

It would have been obvious to one of ordinary skill in the arts at the time the of the invention to incorporate into the travel and booking method and system of Altman the ability to access and store data in different formats wherein the data sets are stored

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as BLOPs with offsets as taught in Pratt since database maintenance is reduced while storage is optimized and any data type can be stored and retrieved using the method of storing data.

NOTE: The Examiner notes that the applicant's admission in paragraph [0026] of the specification wherein the applicant admits that the data can be stored without regard to common format and that in one exemplary embodiment of the applicant's invention, the data set (e.g. BLOB) may be annotated in a standard manner. Applicant admits on page 12 of the remarks submitted on September 5, 2006 that the specific details of how to add a header or trailer to data are well-known in the art.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman et al (US 2003/0120526) (hereinafter referred to as Altman) in view of Acebo et al (6,023,679) (hereinafter referred to as Acebo) and further in view of Rosenbluth International (WO 02/29672) (hereinafter referred to as Rosenbluth) and further in view of DeLorme et al (5, 948,040) (hereinafter referred to as DeLorme) and further in view of Pratt (US 2001/0049693) (hereinafter referred to as Pratt).

Referring to Claims 7 and 9:

Altman discloses an integrated travel industry system comprising:

a communication network Figure 1 (105));

a plurality of centralized hub sites in communication with said network (285) (290), wherein each of said plurality of centralized hub sites comprises a network connection (Figure 2) and a transport mechanism (Figure 2);

a data distribution systems connected to each of the plurality of centralized hub sites (Figure 2 (215));

a remote site (Figure 2 (291) (292) (293) (294) connected to the network comprising a service terminal connected to at least one of the plurality of centralized hub sites of the communication network, the point of service terminal configured to access the data distribution system and the travel broker database and history database (Figure 2 (2920 (294) (205) (210));

a travel broker database connected to the network configured to store information (Figure 2(270))

a travel history database connected to the communication network and configured to store information (Figure 2 (225) and [0034] past travel history, the traveler's profile [0058]).

Altman discloses a PNR [0060]. Altman discloses the point of service terminal comprising a user interface (Figure 3 (315) (Figures 4A-5, 7 etc.) where the user can access the data distribution system and a customer service application having a customer database (Figure 2 (225)). Altman discloses presenting information pulled from multiple data source in one user-friendly format [0031]. Altman discloses an invention that pulls data for air, car, hotel, train and other travel products and services from one or more data sources, including global distribution system (GDS) sources, public Web sites (e.g., an individual airline's Web site, an individual hotel's Web site), travel aggregation public Web sites (e.g., Web sites that allow the public to search and book hotels, flights, car rentals, private direct connection to vendors, and other sources.

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Altman discloses that regardless of the data source, the pulled data is displayed in one format in one display [0033] (The Examiner interprets to mean that Altman receives a plurality of data sets or records in a plurality of formats) While Altman discloses storing travel history (traveler's profile), Altman does not disclose configuring the database to be accessed by travel service buyers who use information about a traveler's future travel plans, storing the information in the plurality of data sets in a plurality of formats or placing, accepting reverse auction bids on travel service inventory, or configuring the travel broker database to store information about travel service inventory, wherein the travel service suppliers post and edit information about travel service inventory, and wherein travel service buyers browse perform queries.

However, Acebo discloses PNR information from the CRS queue is downloaded directly into a record keeping system for modification prior to being entered into the local database. The PNR must be parsed or processed to be place in the appropriate database format. Acebo discloses relational databases to store data, placing PNR information in the appropriate database format (col. 2, lines 6-10, 21-22, col. 2, lines 58-65) and information formatted into a format compatible (indicating multiple formats) with the locally operated computers (col. 5, lines 25-40). Acebo discloses databases organized into a single table format and travel systems which organize information in a database in a travel transaction format, including air table, ground transportation, and hotel (col. 2, line 66 thru col. 4, line 20) . Acebo also discloses customer profiles wherein pre-ticketed data can be monitored (col. 1, lines 8-13 and 40-65) and a system for providing access to current pre-ticketed and pre-invoice reservation information (col.

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4, line 63 thru col. 5, line 3) if a ticket is not generated simultaneously, then the information transferred to the locally operated computer system is pre-ticketed booked travel reservation information that can be displayed on the computer, used to generate reports from the computer, downloaded in a database for processing, or combined with previously stored post-ticketed information to generate reports including both types of information.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel and booking method and system of Altman the ability to store the various records and data in different formats since reservation information comes from multiple sources, for example, a typical itinerary for one passenger can include three travel transactions, such as an air transaction, hotel transaction, and rental car transaction which must be stored, accessed and displayed. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel and booking method and system of Altman storage of pre-ticketed data taught in Acebo so that passenger records can be accessed for analysis and pre-ticket data can be used to determine the number of people going to the same destination so that a possible group rate may be negotiated.

Rosenbluth discloses a system and method that allows for reverse auctions in the travel industry wherein the travel service suppliers can place bids based on RFPs (page 1, line 13 thru page 2, lines 5; page 2, lines 8-17, page 11, line 14 thru page 12, line 6).

It would have been obvious to one of ordinary skill in the art to incorporate into the travel and booking method and system of Altman the reverse auction taught in Rosenbluth so that corporate buyers and sellers can directly negotiate an agreement by submitting a request for proposal and suppliers submitting bids, thus getting better deals.

Altman does not disclose that the travel broker database is configured to store information about travel service inventory wherein suppliers can post and edit the inventory.

However, DeLorme teaches that input/output (Figure 2 (231)) offers/brokers provider input to and from third party providers of travel information in real time which can be updated (interpreted by the Examiner as post and edit). Provider input can be browsed and queried by consumer (Figure 2). One would be motivated to incorporate this into the travel broker disclosed in Altman since this enables users to enjoy more immediate offerings, such as updated information on accommodation availability, special offers for discounts, etc (col. 31, lines 42-51).

Furthermore, the Examiner notes that claim 7 is directed to a system. The applicant appears to be trying to claim the system what it does and the information being stored in the system rather than the actual structure of the system.

The Examiner notes that following as to the limitation:

wherein the travel broker database is configured to store information about travel service inventory **for** access by suppliers who post and edit travel and place reverse auction bids on posted travel service inventory and access by the travel

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service buyers to browse and perform queries on the travel service inventory and to accept reverse auction bids for travel service inventory from travel service suppliers.

The fact that the information is travel service inventory is non-functional descriptive data. When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. *See Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; *see also Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the substrate. The Examiner asserts that

the data identifying the type data being stored in a database adds little, if anything, to the claimed structure of the system and thus does not serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data which does not explicitly alter or impact the steps is non-functional descriptive data. Except for the meaning to the human mind, the data identifying the information stored in the database as travel service inventory does not functionally relate to the substrate and thus does not change the steps of the method as claimed. The subjective interpretation of the data does not patentably distinguish the claimed invention.

Moreover, the claim limitation, while directed to a system, reads that wherein the travel broker database is configured to store information about travel service inventory *for* access by the travel service suppliers who post and edit travel service inventory and place reverse auction bids on the inventory and for access by the travel service buyers to browse and perform queries on the inventory and accept bids. The intended use of the information stored in a database is given little patentable weight. Moreover, there is no positive recitation of users accessing the database or posting/editing/browsing/querying the information. The fact that the travel suppliers can post and edit the inventory

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and place reverse auction bids does not affect the structure of the system. The database is still a database.

As for the limitation of wherein the travel history database is configured to store current information about a travel's future travel plans is again non-functional descriptive data. Moreover, the fact that the information is to be accessed by buyers is not a positive recitation of the database being accessed. The fact that the buyers use the information to place orders is also non-functional descriptive data. This language does not change the structure of the system.

As for the reverse auction limitation, the applicant's specification only discloses the following as to that limitation:

[0042] Referring now to FIG. 4, databases 144 provide substantially private, secure, and confidential storage of all travel data including traveler data, corporate client data, and the Market Information Data Tape (MIDT). Databases 144 include traveler market broker database 145, traveler profile database 146, PNR database 148, corporate negotiated programs database 152, and travel history data warehouse 154. ***Travel service suppliers 145 may post and edit inventory in the travel market broker database 145.*** The posted inventory may include information concerning dates and time, geographic location, quantity, price ranges, amenities, restrictions and other relevant information. ***The inventory may be viewed by travel service buyers 135 who may browse and perform queries on the inventory using a user interface 138.***

[0043] Travel service buyers 135 may access traveler history data warehouse 154 to obtain current information on traveler's future travel plans such as volume of travel, destinations, dates, times, carriers, cost, and other travel itinerary details. Travel service buyers 135 may use this information to place orders to suppliers in order to reduce travel cost and get better deals. The orders may include details such as date and time range of travel, geographic location, quantity, price range, required minimum difference between price and the corporate negotiated price, desired amenities, and other trip requirements. ***Travel service suppliers 145 may then place bids for the orders in a reverse auction fashion.*** The travel service suppliers' bids may be "opaque" such that competitors and current customers cannot see the bid. This will allow suppliers to discretely unload inventory at lower prices than available through

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their retail channels and without drawing attention from competitors or current customers. The suppliers may not be able to view the responses of their competitors. The travel service suppliers may configure alerts for types of orders that are desired to be acted upon. In addition, a matching function may be provided that determines which previously posted inventory or returned bids satisfy a placed order and returns the results to the travel service buyer for final selection and approval.

Thus, it appears that applicant's invention is directed to a database that allows users to post and edit information, browse and perform queries on the information.

Altman does not disclose redundant databases. However, redundant databases are identified on the online Webopedia as:

redundant (adj.) Used to describe a component of a computer or network system that is used to guard the primary system from failure by acting as a back up system. Redundant components can include both hardware elements of a system -- such as disk drives, peripherals, servers, switches, routers -- and software elements -- such as operating systems, applications and databases.

Redundancy is the quality of systems or elements of a system that are backed up with secondary resources. For example, "The network has redundancy."

Thus, a redundant database is simply a back up. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a backup into the reservation system of Altman since it is a standard business practice to backup business information in case of system failures to prevent losses.

Altman discloses databases storing information in a plurality of data sets (records) in a plurality of formats. Altman does not disclose wherein the plurality of data sets are stored as ungrouped data elements formatted as a block of binary via a fixed

memory offset, wherein the plurality of data sets are annotated for storage with at least one of a header and a trailer.

However, Pratt discloses databases storing information in a plurality of data sets in a plurality of formats, [0032] [0041-0042], wherein the plurality of data sets are stored as ungrouped data elements formatted as a block of binary via a fixed memory offset [0032][0046], wherein the plurality of data sets are annotated for storage with at least one of a header and a trailer [0037].

It would have been obvious to one of ordinary skill in the arts at the time the of the invention to incorporate into the travel and booking method and system of Altman the ability to access and store data in different formats wherein the data sets are stored as BLOPs with offsets as taught in Pratt since database maintenance is reduced while storage is optimized and any data type can be stored and retrieved using the method of storing data.

NOTE: The Examiner notes that the applicant's admission in paragraph [0026] of the specification wherein the applicant admits that the data can be stored without regard to common format and that in one exemplary embodiment of the applicant's invention, the data set (e.g. BLOB) may be annotated in a standard manner. Applicant admits on page 12 of the remarks submitted on September 5, 2006 that the specific details of how to add a header or trailer to data are well-known in the art.

Pratt discloses a plurality of data sets that are annotated for storage. The fact that the data sets are annotated for storage into a financial transaction instrument is non-functional descriptive data.

Response to Arguments

Applicant's arguments filed October 31, 2007 have been fully considered but they are not persuasive.

As for applicant's argument that nothing in Altman supports the ability to use a travel broker database configured for access by travel service suppliers who post and edit travel service inventory and place reverse auction bids on the inventory and configured for access by buyers to browse and perform queries and accept bids", these arguments have been addressed with new grounds of rejection above and also in the body of the rejection.

As for applicant's argument that Altman teaches away from combining the teachings of Acebo and Rosenbluth, the Examiner directs the applicant to Dystar Textilfarben GMBH & CO Deutschland KG v. C.H. Patrick CO., and Bann Quimica LTDA (Fed Cir, 06-1088, 10/3/2006), wherein the court held:

103 - Teaching Away - Omission of a teaching is not a teaching away

b. Does the prior art teach away from the claimed invention?

We reject DyStar's assertion that contemporaneous articles by Wimmer and Brochet teach away from the combination of Brochet and Chaumat, and thus the claimed process. DyStar acknowledges that no specific language in these references teaches away from the invention of the '992 patent. Rather, because these references do not discuss the stabilization of leuco indigo solution (in solution form) for immediate addition to a dyebath, DyStar somehow concludes that these references teach that leuco indigo solution "cannot be used to dye but is instead useful only as an intermediate."

Although Wimmer's contemporaneous article only describes the use of indigo solution as an intermediate product, he does not retract his patent language indicating that "the solution can be filtered and the filtrate (which contains a high percentage of indigo white) can be placed on the market without any further

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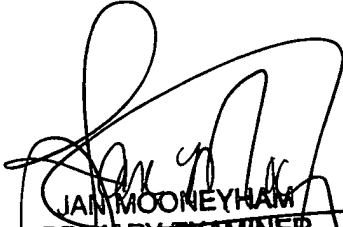
treatment". Wimmer, ll.33-37. Likewise, the Brochet patent, directed toward all vat dyestuffs, broadly teaches that the process "produce[s] mother-liquors which can be diluted immediately before use, or be treated by evaporation under reduced pressure or by any other means to obtain concentrated products for sale." Brochet, ll.66-70. This language implies that all vat dyestuffs, including indigo, may either be used immediately for dyeing or concentrated prior to sale. In his contemporaneous article, Brochet stated that his catalytically hydrogenated solution could be used "economically to obtain concentrated indigo white [i.e., leuco indigo] solutions that are free of impurities and alkaline salts, that can be concentrated in vacuum in order to obtain white indigo as a paste". This mere failure to discuss immediate use of his leuco indigo solution for dyeing is not the same thing as Brochet stating in his article that, though most dyestuffs may be used immediately or stored in oxygen-excluding containers, his leuco indigo solution may only be concentrated in paste form. ***We will not read into a reference a teaching away from a process where no such language exists.***

The Examiner asserts that a reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be lead in a direction divergent from the path that was taken by appellant. A reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the appellant. See *In re Gurley* (CAFC) 31 USPQ2d 1130. The Examiner submits that there is nothing in Altman that discourages the combination with Acebo and Rosenbluth. Omission of a teaching is not teaching away as is set forth by the CAFC in *Dystar Textilfarben GMBH & CO Deutschland KG v. C.H. Patrick CO.*, and *Bann Quimica LTDA* (Fed Cir, 06-1088, 10/3/2006)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANICE A. MOONEYHAM whose telephone number is (571)272-6805. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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